ALBERTA

LAW ENFORCEMENT

REVIEW BOARD

ANNUAL REPORT

1992

ALBERTA
LAW ENFORCEMENT REVIEW BOARD

July 12, 1993

Honourable Ken Rostad, Q.C.
Minister of Justice and
Attorney General
Room 320 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Rostad:

In accordance with Section 14 of the Police Act, I respectfully submit the Annual Report for the Law Enforcement Review Board for the 1992 calendar year.

Yours truly,

Joanne Taylor-Weir

Joanne Taylor-Weir, Secretary
Law Enforcement Review Board

Att.
cc: P.J. Knoll, Chairman of the Board
C.R. Cunningham, Member of the Board
D. Evans, Member of the Board
D. Day, Past Counsel to the Board
R. Didrikson, Counsel to the Board
N. McCrank, Deputy Minister - Justice
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ALBERTA
Law Enforcement Review Board
1992 Annual Report

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INTRODUCTION

Striking the correct balance, in the complaint process, between the legitimate concerns of the public and police services is a difficult task. Established structural processes operate to satisfy the increased public demand for accountability, external review and openness. They must operate however, in a context which provides the police with an appropriate level of involvement in the management of complaint matters. In the end result, all concerned, public and police, must have confidence in the integrity and fairness of the system.

A strong emphasis on police accountability to the public is essential. This principle will continue and become more pronounced over this decade. Citizens as the consumers of policing will become more involved in the complaint process. The public in general is more vocal and inquisitive than in the past, demanding more information from the police and desiring greater input into police practices. This can be seen from the movement toward community and problem oriented policing, which involves greater participation by the public in policing, as well as more openness on the part of police organizations.

Police Commissions

The Police Act (1988) of Alberta is the provincial legislation that establishes municipal police services in the province. The Police Act stipulates that every police member is subject to the jurisdiction of the Commission. The Commission may conduct hearings to inquire into the administration, operation or requirements of the police service with the same powers as a Commissioner appointed under the Public Inquiries Act. The Chief of Police is required to report to the police commission, under Section 41(3)(e), on complaints against the police service or its members and the manner in which they are resolved. Under Section 46, a commission must also investigate any citizen complaint regarding the conduct or performance of the Chief of Police.

Appeals

Once an investigation of a complaint has been completed, the disposition determined, and the affected individuals notified, an appeal may be made to the provincial Law Enforcement Review Board.

The Board is established by the Lieutenant Governor in Council under the Police Act. The Board shall: conduct inquiries respecting complaints; conduct appeals referred to the Board under Section 48; and shall, at the request of the Solicitor General, conduct inquiries in respect of any matter respecting policing.

The powers of the Board are set out in Section 20 of the Act and include the authority to: dismiss or allow an appeal; vary the decision or penalty; direct the laying of charges; or

take other action thought appropriate by the Board.

The Law Enforcement Review Board may also, on its own, initiate an inquiry respecting any complaint, or conduct an inquiry at the direction of the Minister of Justice and Attorney General.

MANDATE/ROLE OF THE BOARD

The Law Enforcement Review Board is an independent quasi-judicial body established under the Alberta Police Act (CP - 12.01, 1988) in 1973. The Law Enforcement Review Board provides an independent means for reviewing public complaints concerning police conduct, and for appeals by police officers from disciplinary action. The mandate of the Board is derived from the Police Act, Part 2, Sections 9 through 20.

The principal activity of the Board is to hear appeals from citizens who have complained about a police officer's actions and are not satisfied with the disposition of their complaint. Police officers who have been the subject of discipline arising out of a complaint and who feel themselves aggrieved with the decision of their Chief of Police may also appeal to the Board. The Board provides a forum for both citizens and police officers separate and apart from the Police Service involved. The principal objective of the Board is independent and impartial review.

Hearings are held as often as required, depending on the number of appeals filed, usually in the municipality where the issue arose. Normally, three Board members are in attendance at each hearing. The Police Act stipulates that the Board be composed of not fewer than three members appointed by the Lieutenant Governor in Council. The Police Act specifies for the purposes of conducting an appeal or an inquiry under the Act, a quorum of the board shall consist of two members of the Board.

Who Can Appeal to the Board

1. Public Complainant - A citizen may appeal the decision of a Chief of Police concerning the disposition of their complaint.

2. Police Officer - A police officer may appeal any findings or action taken against the officer arising from a complaint.

3. Private Investigator, Security Guard - If a private investigator or security guard is refused a licence or the right to retain an existing licence, they may appeal to the Board.

4. Special Constable - A person may appeal the cancellation of an employer's authorization or the cancellation of a special constable appointment.

Board Findings/Powers

A written decision is provided by the Board for each appeal. In most circumstances decisions are forwarded to the concerned parties within 60 days of the appeal hearing. A decision of the Board may be appealed to the Alberta Court of Appeal on a question of law only. Leave of the Court is required for an appeal to the Alberta Court of Appeal.

The powers of the Board are set out in the Alberta Police Act. The Board does not have jurisdiction to award monetary damages or provide civil compensation. Also, the Board may not withdraw charges laid by the police nor set aside convictions for federal or provincial offenses.

BOARD MEMBERS

The following individuals are currently members of the Law Enforcement Review Board:

P.J. Knoll	Chairman	Calgary, Alberta
C.R. Cunningham	Member	Edmonton, Alberta
D.J. Evans	Member	Pincher Creek, Alberta

The Police Act specifies that the only qualification for membership is that at least one member of the Board be an active member of the Law Society of Alberta, and that the Chairman must be an active member of the Law Society of Alberta. In case of illness, absence or other disability of the Chairman, the member in attendance with the longest period of service on the Board shall act in the place of the Chairman.

Term of Membership

During 1992, there were three Board members. The members of the Board are appointed by Order in Council for a term of not more than three years and are eligible for reappointment. According to the Act, a member continues to hold office until reappointment or a successor is appointed.

BOARD STAFF AND ACCOMMODATION

The Law Enforcement Review Board currently has two staff members assigned to handle and provide administrative support in order for it to accomplish its mandate. One is the Secretary to the Board, who handles administrative and support functions. The other is Counsel

to the Board, who assists the Board regarding appeals and provides service to unrepresented appellants.

The office of the Board is currently located at the 10th Floor, 10365 - 97 Street, Edmonton, Alberta. This office is open during normal working hours to receive inquiries from members of the public or a respective police service in regard to its functions.

SUMMARY OF BOARD DECISIONS

During the 1992 year, the Law Enforcement Review Board handled the disposition of 43 appeals. The following is a summation of those appeals.

Citizen Appeals

Allowed

Mr. Rous filed a complaint January 18, 1991 regarding an incident which occurred July 29, 1990. Mr. Rous alleged that he was improperly and without justification struck by a member of the Calgary Police Service during a bail hearing. The Board felt that Mr. Rous met the burden of proof in relation to this case and therefore denied the previous decisions and allowed the appeal. An issue that arose was that the police member in question was no longer with the Calgary Police Service, as he left their employment in August 1991. Although the appeal was allowed, the Board is of the view that it is unable to provide much in the way of relief for Mr. Rous due to the fact that the member in question is no longer in the Service. However, the Board has indicated that Mr. Rous is free, as is any member of our society, to contact the Department of the Attorney General to have this matter considered on review. (#005-92)

Mr. Peter Schmidt filed a complaint April 1, 1992, alleging "Misconduct" against a member of the Calgary Police Service regarding events that occurred March 8, 1992. His complaints were that during his arrest, his request for medical attention was ignored, he was not allowed to make a statement or a phone call and the officer made derogatory remarks to him. Mr. Schmidt appealed the decision of the Calgary Chief of Police that his complaint was unfounded to the Board June 18, 1992. Upon hearing the evidence, the Board allowed the appeal and a reprimand was imposed upon the constable involved. (#029-92)

Mr. Rihana filed a complaint May 28, 1991 concerning the conduct of a member of the Edmonton Police Service regarding events occurring on February 19, 1991. His complaint was that during his arrest he was insulted by the arresting police officer. Mr Rihana appealed the decision of the Deputy Chief of Police, that his complaint was unfounded, to the Board on June 10, 1992. Upon hearing the evidence, the Board allowed the appeal and an official warning was issued to the constable involved. (#038-92)

Mr. Elbert filed a Notice of Appeal to the Board June 26, 1992 regarding a complaint against two members of the Edmonton Police Service. His complaint was that members of the Edmonton Police Service failed to take appropriate action on two incidents which Mr. Elbert had been reporting since 1984. He also complained about a break and enter into his home by the Edmonton Police Service for no reason at all and other unresolved break-ins. The appeal of Mr. Elbert was allowed however the officer was not reprimanded. The Board made recommendations to the Chief of Police concerning the complaint about the break and enter. (#039-92)

Mr. Cook filed a complaint March 19, 1992 concerning the conduct of a member of the Calgary Police Service. The Calgary Chief of Police responded June 30, 1992 advising the complaint was not sustained. Mr. Cook's complaint was that the constable had been manipulative and deceitful with Mr. Cook in discussions over a traffic accident March 5, 1992. Upon hearing the evidence, the Board allowed the appeal and an official warning was issued to the constable involved. (#043-92)

Allowed in Part

Mr. Dahlgren filed a complaint June 17, 1992 against two members of the Calgary Police Service. His complaint was that he was arrested June 7, 1992 without legal justification, that excessive force was used during the arrest and the police vehicle used to transport Mr. Dahlgren after his arrest was operated in a careless manner causing discomfort and difficulty. Mr. Dahlgren appealed the decision of the Chief of Police August 31, 1992 alleging that all complaints were unfounded except a complaint that both officers had failed to provide their names upon request by Mr. Dahlgren. The appeal of Mr. Dahlgren was allowed although the Board did not make a decision on the merits. The Chief of Police, however, was directed to lay disciplinary charges. (#040-92)

Dismissed Upon Hearing

Mr. Dat Tan Nguyen filed a letter of complaint July 25, 1992 regarding an incident that occurred that same day with the Calgary Police Service. Mr. Nguyen alleged that he was struck in the ribs by a member of the Calgary Police Service during his entry into a holding cell area. It was furthermore alleged that the incident had racial overtones and that the member also failed to consider Mr. Nguyen's difficulties with the English language. The Board provided the following comments after hearing this appeal. Although the Board was unable to detect any evidence of racism or racial motivation with regard to the conduct of the police, it does have some concern regarding the treatment of persons whose first language is other than English. The Board was satisfied that Mr. Nguyen suffered an injury to his person during confinement. There is uncertainty as to the cause of this injury and it would be improper for the Board to speculate on the causation. The Board found the previous decision by the Chief of Police to be affirmed and the appeal was dismissed. (#002-92)

Mr. Wade Morin filed a letter of complaint concerning events of August 17, 1991. He alleged misconduct by two members of the Calgary Police Service. The essence of Mr. Morin's complaint was that both police officers had been abusive in their contact with him and he further alleged general harassment and threatening conduct. Mr. Morin was not able to meet the burden of proof, which falls to the appellant on this case. The previous decision made by the Chief of Police was affirmed and the appeal dismissed. (#004-92)

Mr. R. Tiedemann filed a complaint alleging misconduct by a member of the Calgary Police Service regarding an incident which occurred March 20, 1991. Mr. Tiedemann stated that he was improperly arrested and was not given an opportunity to identify himself to the police. He further stated that when handcuffs were placed on his wrists they were tightened excessively, causing him injury. The Board did not find the evidence of Mr. Tiedemann to be very convincing in the allegation of being improperly arrested. Regarding the wrist injuries, the Board accepted Mr. Tiedemann's evidence that he suffered the re-opening of a sore on his wrist. The Board, however, was satisfied that Mr. Tiedemann was resistant to his arrest and cuffing and therefore had some responsibility for the resulting consequences. The Board was of the view that the Chief of Police was justified in his determination of the matter and the appeal was dismissed. (#003-92)

Mr. J.M. Hutton filed a complaint alleging misconduct by two members of the Calgary Police Service regarding an incident February 8, 1991. Mr. Hutton alleged that both officers had treated him in a rude and callous manner. The complaint letter alleged deceitful and bullying conduct as well as failure by the police to provide identification and other requested information. Upon hearing the appeal, the Board was not satisfied that Mr. Hutton had met the burden of proof which falls to the appellant. The previous decision made by the Chief of Police was therefore affirmed and the appeal dismissed. (001-92)

Ms. Louise Buck filed a complaint June 28, 1991 alleging misconduct by two Medicine Hat Police Service members. Ms. Buck alleged that the two officers used excessive force when arresting her on the evening of May 11, 1991. She further alleged she was harassed by one of the members and that both officers used abusive language. The Board found that evidence indicated Ms. Buck's injuries were attributed to violent resistance, but that the arresting officers were not entirely responsible for these injuries. The Board found Ms. Buck's complaints without merit and that the Chief of Police was justified in his determination of the matter. The appeal was dismissed. (#006-92)

Mr. David Sparks filed a letter of complaint on November 10, 1991 alleging misconduct by three members of the Calgary Police Service. His complaint stemmed from an incident which occurred on October 18, 1991, in which he states that two constables were rude, oppressive and insulting in their dealings with him on October 18, 1991 when they stopped his vehicle. The third member was also said to be rude when Mr. Sparks attempted to phone and complain about the first two members, in that the Sergeant hung up on him during a conversation. Upon

hearing the Appeal of Mr. Sparks, the Board determined that the evidence provided by Mr. Sparks to be not credible. The evidence provided by the members of the police service was accepted. The Board did comment on the manner in which Mr. Sparks phone call was dealt with. Even a caller who creates frustration and difficulty deserves to be told that they have been given all information and that the speaker will be "hanging up". The Board concluded that the Chief of Police was justified in his determination that the complaint was unfounded and the Appeal was dismissed. (#014-92)

Mr. Nicola Stankovic filed various letters of complaint against two members of the Edmonton Police Service concerning events of March 6, 1990. Stankovic complained that he was improperly arrested and detained March 6, 1990. Concerning the arrest, the Board accepted the evidence by the EPS members. The Board holds the view that it was truly unfortunate that Mr. Stankovic was detained. A copy of the judgment was forwarded to the Chief Judge of the Provincial Court of Alberta. It will be the Chief Judge's decision to decide whether or not the detention circumstances warrant further consideration. The Board found that the Chief of Police was justified in his determination and the appeal was dismissed. (#019-92)

Mrs. Ann Antonio filed a complaint June 16, 1992 alleging "Misconduct" against a member of the Calgary Police Service. The complaint was that the investigation into the death of her son was not thorough. The Calgary Chief of Police informed her the investigation was thorough and complete and her complaint was unfounded. Mrs. Antonio appealed the decision to the Board July 31, 1992. The conclusion of the Board was that the police service had conducted a thorough investigation and the appeal was dismissed. (#028-92)

Ms. Lillian McDonald had made various complaints during March, 1988 alleging "Sexual Exploitation" against a member of the Edmonton Police Service. The Edmonton Chief of Police informed Ms. McDonald that her complaint was unfounded. Ms. McDonald appealed the decision to the Board March 5, 1992. After hearing the evidence the Board affirmed the previous decision and the appeal was dismissed. Before leaving this matter, however, the Board commented on one aspect of this appeal; although a complaint was lodged in March, 1988, a lawful response was not provided until August 1991. (#032-92)

Mr. Harry Silverman filed a complaint November 4, 1991 alleging "Perjury" against a member of the Edmonton Police Service and an employee of Revenue Canada. His complaint was that the officer did not show proper interest in Mr. Silverman's allegations of assault and that the officer gave perjured evidence in court. Upon completion of the investigation, the police service notified Mr. Silverman by a letter of June 3, 1992, his complaint was not justified and no disciplinary action would be taken. Mr. Silverman appealed the decision to the Board on June 9, 1992, After hearing the evidence the Board affirmed the previous decision and the appeal was dismissed. (#033-92)

Mr. Harry Allen filed a complaint May 14, 1992 of "Unnecessary Exercise of Authority" against

a member of the Calgary Police Service. His complaint was that he was wrongly arrested, the officer was aggressive and rude and he did not agree with the way a body search was conducted. After an investigation the Calgary Chief of Police informed Mr. Allen by letter of July 6, 1992, that his complaints were unfounded. Mr. Allen appealed the decision to the Board August 11, 1992. After hearing the evidence the Board concluded that Mr. Allen had not met the burden of proof and the appeal was dismissed. (#035-92)

Mr. Christopher Nordli wrote numerous letters to the Edmonton Police Service alleging "Misconduct and Perjury" against three members of the Edmonton Police Service. His complaint was that he was wrongfully convicted of failing to supply a breath sample and that an officer gave perjured testimony. The Edmonton Chief of Police informed Mr. Nordli by letter of August 6, 1992 that his complaint was not justified. Mr. Nordli filed a notice of appeal with the Board August 26, 1992. After hearing the evidence the Board affirmed the previous decision and the appeal was dismissed. (#034-92)

Ms. Inger Howse filed a complaint March 11, 1992, of "Unlawful or Unnecessary Exercise of Authority" against three members of the Calgary Police Service regarding an incident on March 6, 1992. The complaint was that the police had placed her, and possibly other members of the general public, in danger by not properly securing an area within an apartment building. The Calgary Chief of Police informed her that her complaint was "Not Sustained". Ms. Howse appealed the decision to the Board June 25, 1992. Upon hearing all the evidence, the Board determined the decision of the Chief of Police was justified and the appeal was dismissed. (#023-92)

Mr. Tejinder Sidhu filed a complaint of "Misconduct" by a member of the Calgary Police Service. Mr. Sidhu claims he was arrested without just cause during a concert at the Polish Canadian Club November 8, 1991. After investigating this matter, the Calgary Chief of Police determined there was insufficient evidence to support this claim and his complaint was "Not Sustained". A Notice of Appeal was filed with the Board April 22, 1992. Upon hearing the appeal, the Board was not satisfied Mr. Sidhu had met the burden of proof placed upon the appellant. The previous decision was affirmed, and the appeal dismissed. (#024-92)

Ms. Anita Hurtig filed a complaint in December 1991, alleging misconduct against a member of the Calgary Police Service concerning events in March, 1991. Her complaint was that she was unjustly charged with "Hit and Run". Upon hearing, the Board determined the Chief of Police was justified, The previous decision was affirmed, and the appeal was dismissed. (#026-92)

Mr. Murray Pay filed a complaint July 23, 1991 alleging misconduct against a member of the Calgary Police Service. Pay alleged that the officer perjured himself during a court case against Pay exaggerating his testimony in relation to two points of evidence. The Board had a mixed view of the evidence given by both Pay and the officer involved. The Board was therefore

reluctant to accept the evidence of one party over the other and the evidence was subject to the test in Law for Appeals of this nature. The Board was not satisfied that Pay met the burden of proof, which falls to the appellant. The appeal was dismissed. (#020-92)

Mr. Leonard Grant filed a complaint in November 1989 alleging misconduct of two members of the Calgary Police Service. Grant complained of excessive force used during the arrest of two native men November 16, 1989. It was further alleged that the police abused their power in that they were dealing with people who were unlikely to lodge a complaint. The Board was not satisfied that Grant had a case for allowing the appeal. Notwithstanding, the Board encourages people to lodge complaints if they observe police activity which appears improper, particularly where the poor or otherwise disadvantaged are concerned. The appeal was dismissed. (#015-92)

Held Over

Mr. Thomas Engel, solicitor, alleges that a member of the Edmonton Police Service gave false testimony against his client, Mr. Frank Leaney, thereby committing perjury, in a court of Law May 7, 1990. After an investigation by both the Edmonton Police Service and the Department of the Attorney General, Mr. Engel was informed that his complaint was "Not Sustained" due to insufficient evidence. Mr. Engel filed a Notice of Appeal to the Law Enforcement Review Board February 25, 1992. The decision of this appeal has been held over until 1993. (#016-92)

Dismissed - Lack of Prosecution

Mr. David Gladish filed a complaint May 21, 1991 about the conduct of CPS members regarding an incident that occurred May 17, 1991. The essence of Mr. Gladish's complaint was that members should have received further discipline following the May 17, 1991 incident. Mr. Gladish was served with a Notice of Appeal March 17, 1992. He failed to attend his April 7, 1992 hearing date and the appeal was dismissed for lack of prosecution. (#008-92)

Mr. Tony Budzko filed a complaint November 25, 1991 concerning the conduct of a member of the Edmonton Police Service. The Chief of Police responded to the complaint on March 13, 1992 and Budzko appealed to the Board March 27, 1992. Mr. Budzko failed to attend the June 16, hearing and the appeal was dismissed for lack of prosecution. (#018-92)

Ms. Shelly Morin filed a complaint September 20, 1991 concerning the conduct of a member of the Calgary Police Service. Her complaint was that during her arrest she was physically assaulted and subjected to abusive and insulting language. After an investigation the Calgary Chief of Police informed Ms. Morin by letter of December 5, 1991, that her complaint was "Sustained in Part". Ms. Morin appealed this decision to the Board in December 1991, The hearing was scheduled and several attempts were made without success to contact Ms. Morin

to serve the Notice of Appeal. The appeal was dismissed for lack of prosecution. (#036-92)

Withdrawn

Mr. Joe Karasin has filed various complaints against two members of the Calgary Police Service concerning events in 1990 and 1991. The Chief of Police responded to the complainant advising all complaints were unfounded. Mr. Karasin filed a Notice of Appeal to the Board on July 10, 1991. Mr. Karasin's appeal hearing had been scheduled for May 19, 1992 but he phoned the Board office May 4, 1992 and advised that he wished to withdraw his Appeal. On May 19, 1992 the Board spoke to this matter. Mr. Karasin did not appear. The Board granted the application to withdraw the appeal. (#012-92)

Mr. Antoni Grochowski filed a formal complaint September 13, 1991 concerning the conduct of two Calgary Police Service members regarding an incident which occurred in May 1991. The Calgary Chief of Police had advised Mr. Grochowski that his complaints were unfounded and Mr. Grochowski appealed that decision to the Board December 11, 1991. Mr. Grochowski advised the Board in writing May 15, 1992 that he wished to withdraw his appeal and attended the hearings May 19, 1992 in which he made oral application to withdraw. The application was granted. The appeal was therefore withdrawn. (#011-92)

Mr. Brian Pemberton filed a complaint of "Neglect of Duty" February 15, 1992, against two members of the Calgary Police Service concerning events that occurred in 1991 and 1992. Mr. Pemberton appeared before the Board and made and oral application to withdraw. The appeal was withdrawn in September 23, 1992. (#022-92)

Ms. Juliana Tokarsky filed a complaint against a member of the Edmonton Police Service (EPS) regarding an incident which occurred February 26, 1992. Tokarsky advised the Board June 12, 1992 she wished to withdraw her appeal. The application to withdraw the appeal was granted. (#017-92)

Mr. and Mrs. J. Brewis filed a complaint July 26, 1991 of "Inappropriate Conduct" against a member of the Calgary Police Service concerning events of July 25, 1990. Their complaint was that the officer did not explain the seriousness of the traffic violation they were given. The Calgary Chief of Police informed Mr. and Mrs. Brewis by letter of July 26, 1991, that their complaint was unfounded. A Notice of Appeal was filed with the Board October 4, 1992. Mrs. Brewis appeared at the hearing and applied to withdraw the appeal. The application was granted and the appeal withdrawn. (#037-92)

Dismissed - Lack of Jurisdiction

Mr. Jasmail Litt filed a complaint in October 1991 alleging neglect of duty by a communications

officer of the Calgary Police Service. Mr. Litt's complaint was that the officer did not respond appropriately to a 911 emergency call made by his wife October 7, 1991. At the commencement of the Appeal the Board raised the issue as to whether or not a communications officer is a "police officer" under the meaning of the Police Act. It was determined that the Board lacked the necessary jurisdiction to hear this Appeal. The matter was referred back to the Chief of Police for disposition under section 44(2) of the Police Act. Mr. Litt should be advised by the Chief of Police as to the disposition of the matter and his right of Appeal. The Appeal was dismissed for lack jurisdiction. (#013-92)

Mr. Shifferan Beyene filed a complaint with the Calgary Police Service May 6, 1992 of "Unlawful or Unnecessary Exercise of Authority" against two members of the Calgary Police Service. His complaint was the police officers involved had no authority to enter his property. The Board determined the complaint to be one concerning policy. The appeal was dismissed for lack of jurisdiction and the matter referred to the Calgary Police Commission for response. (#025-92)

Referred to the Attorney General

Mr. Dahlgren filed a complaint June 17, 1992 against two members of the Calgary Police Service. His complaint was that he was arrested on June 7, 1992 without legal justification, that excessive force was used during the arrest and the police vehicle used to transport Mr. Dahlgren after his arrest was operated in a careless manner causing discomfort and difficulty. Mr. Dahlgren appealed the decision of the Chief of Police August 31, 1992 that all complaints were unfounded except a complaint that both officers had failed to provide their names upon request by Mr. Dahlgren. The appeal of Mr. Dahlgren was allowed although the Board did not make a decision on the merits. The Chief of Police, however, was directed to lay disciplinary charges. (#027-92)

Officer Appeals

Allowed

Constable M.R. Myers filed a Notice of Appeal to the Board regarding the disciplinary decision of dismissal handed down by the Calgary Chief of Police following an internal investigation into incidents that occurred on August 10, 1991. After hearing the evidence the Board considered whether the discipline decision was supported by evidence. The Board found that two of the four counts against the officer were not supported by evidence. Based on this the Board took the position that dismissal was not appropriate and that the constable was to be suspended without pay for 20 hours for the remaining counts. The Board, however, did make reference of this case to the Attorney General as it felt there may have been an action by this officer that may have constituted an offence. (#031-92)

Withdrawn

Constable Norman Manyfingers had filed a Notice of Appeal to the Board. The appellant's counsel advised they wished to withdraw their appeal September 9, 1992. At the Board hearings September 23, 1992, the Board spoke to this matter and the application to withdraw was granted. (#021-92)

Dismissed Upon Hearing

Constables Donald Adams and Brian Frank filed an appeal to a discipline decision by the Calgary Chief of Police relating to an incident that occurred April 10, 1991. An investigation determined that a motor vehicle operated by a Calgary Police Service (CPS) member, in which Constable Adams and Frank were passengers, committed a "hit and run" on a pedestrian. The grounds of the appeal were that there was insufficient evidence to prove neglect of duty, that the testimony offered by the officers suggested that both responded in a lawful and responsible manner and that the penalty imposed upon them was unreasonable. The Board did not agree with the grounds of the appeal. It was felt that it is a serious matter when police officers put the welfare of a citizen second to that of their colleagues. The penalties directed by the presiding officer stood in this case. The appeal was dismissed. (#007-92)

Sergeant Vogelzang filed a notice of appeal to the Board regarding the disciplinary decision of dismissal handed down to him by the Calgary Chief of Police following an internal investigation regarding incidents which took place between January 1991 and May 29, 1991. After hearing the evidence, the Board dismissed the appeal. (#042-92)

Constable Mark Byers (CPS) filed an appeal to the discipline decision he received regarding an incident May 17, 1991. An investigation determined that Constable Byers struck a Mr. D. Gladish. As a result Mr. Gladish required medical attention, receiving five stitches to his face. Constable Byers' appealed the decision on the grounds that the presiding officer erred when he found that inappropriate force was used, the findings of guilt were not supported by evidence and the penalty he received was excessive. The Board was of the view that although the conduct of Mr. Gladish was disgraceful, insulting and intentionally provocative, it did not, however, warrant the response made by Constable Byers. The Board describes excessive use of force that causes bodily harm as one of the most serious forms of police misconduct. To the Board, improper use of force will, in the future, attract significant penalties. In this case, the Board was of the view that, if anything, the penalty imposed was on the light side. However, for reasons stated in the judgement, the penalty will stand without alteration and the appeal was dismissed. (#009-92)

Dismissed - Lack of Jurisdiction

Constable R. Deley appealed the decision of the Calgary Chief of Police in which he was issued

a written warning stemming from an incident that occurred December 24, 1990. Two issues were raised before the Board regarding this case. The first was in relation to time constraints regarding time limitations under section 48(1) of the Police Act as this appeal was filed after the 30-day expiration of the time for service of a notice of appeal. This application was allowed although the Board indicated that in the future the Board will not extend the filing period beyond the initial thirty days unless good and sufficient reasons are provided or if other circumstances warrant the extension. The second issue dealt with was whether the appellant had exhausted his right of Appeal prior to coming before the Board. Section 19(3) of the Police Service Regulation provided that the decision of the Chief of Police is "final". The Board determined in this case, after reviewing legislative history, that in circumstances where no hearing was held, an appeal to the Board was not an option for a member of a police service. Accordingly the Board rejected the appeal for lack of jurisdiction. The appellant is free to pursue whatever civil remedies are available by way of judicial review concerning the decision of the Chief of Police. The appeal was dismissed for lack of jurisdiction. (#010-92)

Referred to the Attorney General

Constable M.R. Myers filed a Notice of Appeal to the Board regarding the disciplinary decision of dismissal handed down by the Calgary Chief of Police following an internal investigation into incidents that occurred August 10, 1991. After hearing the evidence the Board considered whether the discipline decision was supported by evidence. The Board found that two of the four counts against the officer were not supported by evidence. Based on this the Board took the position that dismissal was not appropriate and that the constable was to be suspended without pay for 20 hours for the remaining counts. The Board, however, did make reference of this case to the Attorney General, as it felt there may have been an action by this officer constituting an offence. (#031-92)

Held Over

Sergeant J.J. Manahan filed a Notice of Appeal to the Board regarding a disciplinary decision handed down to him by the Calgary Chief of Police. Sergeant Manahan was charged with "Unlawful and Unnecessary Exercise of Authority," regarding an incident that occurred on July 9, 1991, and received a reprimand under Section 17(1)(b) of the Police Act. The decision on this appeal has been held over until 1993. (#041-92)

STATISTICAL ANALYSIS OF APPEALS FILED WITH THE BOARD

Summary of Activities - 1990 - 1992

The following information has been compiled in order to provide a summation of the activities of the Law Enforcement Review Board for the years 1990 to 1992.

Upon review of the Law Enforcement Review Board activities for the year 1990, it is noted that 7 appeals were held over from 1989 and 7 were held over to 1991. Out of 43 cases (excluding 1 adjourned sine die) heard 6 (13.9%) were allowed. 30 (69.7%) were dismissed and 7 (16.3%) were withdrawn. Of the 30 dismissed appeals 17 (56.7%) were dismissed upon hearing; 8 (26.7%) were dismissed for lack of prosecution and 5 (16.7%) were dismissed for lack of jurisdiction. Again in 1990 the number of Calgary citizen complaints is noticeably higher than the number for Edmonton, with 26 (76.4%) and 8 (23.5%) respectively. It appears that most of the Calgary citizen appeals are over excessive use of force, unnecessary use of authority or improper conduct of Calgary Police Officers.

In 1991, 7 appeals were held over from 1990 and 17 were held over to 1992. Out of the 21 cases heard no appeals were allowed. Fourteen were (66.6%) were dismissed and 7 (33.3%) were withdrawn. Of the 14 dismissed appeals 11 (78.5%) were dismissed upon hearing and 3 (21.4%) were dismissed for lack of prosecution. As in past years, the number of Calgary citizen appeals was higher than the number for Edmonton, with 11 (52.4%) and 8 (38%) respectively. And, as in 1990, most of the complaints related to the charges of excessive use of force, unnecessary use of authority or improper conduct of the Calgary Police Service.

In 1992 the Law Enforcement Review Board disposed of 43 appeals. Of the 43 cases heard 7 (16.2%) appeals were allowed (including one allowed in part). 26 were (60.4%) were dismissed and 6 (13.9%) were withdrawn. Of the 20 dismissed appeals 20 (46.5%) were dismissed upon hearing and 3 (6.9%) were dismissed for lack of prosecution. The number of Calgary citizen appeals is higher than the number for Edmonton, with 27 (62.7%) and 8 (18.7%) respectively. And as was seen in past years, most of the appeals related to charges of excessive use of force, unnecessary use of authority or improper conduct of the Calgary Police Service.

In 1990 a total of 34 (79%) of the total 43 appeals were lodged by civilians, but the appeals that were allowed were predominantly police initiated. During 1991, a total of 19 (90.4%) of the appeals were lodged by private citizens and 2 (9.5%) were lodged by police officers. No appeals were allowed during the 1991 calendar year. During 1992 a total of 35 (81.4%) of the total 43 appeals were lodged by civilians and the appeals allowed were predominantly civilian initiated.

During the years 1990, 1991 and 1992 no cases were heard before the Board involving private investigators, security guards or special constables. The following table outlines the activities of the Board for 1990, 1991 and 1992.

LAW ENFORCEMENT REVIEW BOARD ACTIVITIES
SUMMARY OF ACTIVITIES

Table - Cases Disposed of by the Board - 1990 - 1992

DISPOSITION	1990				1991				1992			
	CIVILIAN	POLICE	TOTAL	%	CIVILIAN	POLICE	TOTAL	%	CIVILIAN	POLICE	TOTAL	%
Appeals Allowed			6	13.9			0	0			7	16.2
- Calgary		2	2		0	0	0		4(*)	1	5	
- Edmonton	2	2	4		0	0	0		2	0	2	
Appeals Dismissed Upon Hearing			17	39.5			11	52.3			20	46.5
- Calgary	12	1	13		2	1			12	3	15	
- Edmonton	3	1	4		6	1			4	0	4	
- Medicine Hat	0	0	0		1				1	0	1	
Appeals Dismissed for Lack of Prosecution			8	18.6			3	14.2			3	6.9
- Calgary	7	0	7		3	0			2	0	2	
- Edmonton	1	0	1		0	0			1	0	1	
Appeals Dismissed for Lack of Jurisdiction			5	11.6			0	0			3	6.9
- Calgary	2	0	2		0	0			2	1	3	
- Edmonton	1	2	3		0	0				0	0	
Referred to Attorney General	10.3			0			0	0			2	4.9
-Calgary		0	0		0	0			1	1	2	
Withdrawn by Complainant			7	16.2			7	33.3			6	13.9
- Calgary	5	1	6		5	0			4	1	5	
- Edmonton	1	0	1		1	0			1	0	1	
- Lacombe					1	0						
Held Over	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a			2	4.6
- Calgary									1			
- Edmonton										1		
TOTAL	34	9	43	100	19	2	21	100	35	8	43	100
- Calgary	26	4	30	69.7	10	1	11	52.8	26	7	33	76.7
- Edmonton	8	5	13	30.2	7	1	8	38	8	1	9	20.9
- Medicine Hat	0	0	0	0	1	0	1	4.7	1	0	1	2.3
- Lacombe	0	0	0	0	1	0	1	4.7	0	0	0	0

(*) - one case allowed in part

BREAKDOWN OF APPEALS FILED WITH THE
LAW ENFORCEMENT REVIEW BOARD
1992

ALLOWED		DISMISSED UPON HEARING			ALLOWED IN PART	WITHDRAWN		DISMISSED - LACK OF PROSECUTION		REFERRED TO ATTORNEY GENERAL	DISMISSED - LACK OF JURISDICTION	HELD OVER	
Calgary	Edmonton	Calgary	Edmonton	Medicine Hat	Calgary	Calgary	Edmonton	Calgary	Edmonton	Calgary	Calgary	Calgary	Edmonton
Cook	Elbert	*Vogelzang	Nordli	Buck	Dalghren	Brewis	Tokarsky	Morin	Budzko	*Myers	Beyene	*Manahan	Leaney
*Myers	Rihana	Allen	Silverman			Pemberton		Gladish		Dahlgren	Litt		
Schmidt		*Frank & Adams	McDonald			*Manyfingers					*Deley		
Rous		Hurtig	Stankovic			Karasin							
		Sidhu				Grochowski							
		Howse											
		Pay											
		Grant											
		Sparks											
		*Beyers											
		Morin											
		Tiedemann											
		Nguyen											
		Hutton											
		Antonio											

* - represents officer appeals

Totals = Citizen Appeals = 35
Officer Appeals = 8

TOTAL = 43

Law Enforcement Review Board Activities

CASES DISPOSED OF BY THE BOARD - 1992

Appeals Allowed	**6**
Appeals Allowed in Part	**1**
Appeals Dismissed	
Upon Hearing	**20**
For Lack of Prosecution	**3**
For Lack of Jurisdiction	**3**
Referred to the Attorney General	**2**
Withdrawn by Complainant	**6**
Held Over	**2**
TOTAL	**43**

CONCLUSION

Any police complaint system must be monitored to ensure that it remains responsive to changing requirements in the public domain. It is extremely important that the complaint system be designed to safeguard due process rights of both citizens and police officers so as to protect concerned parties from any form of inappropriate investigative procedure.

All complaint investigations should be completed within an acceptable time frame and citizens should be regularly kept informed of the status of their complaints. When a complaint investigation has been completed and a decision made about its validity, all parties should be promptly informed in writing of the decision and of available appeal procedures to use if the decision is regarded as unsatisfactory.

If a police service is to have the trust and confidence of the community, it must establish clear standards of behaviour for its officers and it must handle citizen complaints swiftly and impartially. Officers must know the standard to which they will be held accountable, and there must be accessible and thorough procedures with civilian involvement for investigating citizen complaints.